

STATE OF TENNESSEE
COUNTY OF _____

**AFFIDAVIT OF CUSTODIAN OR OTHER QUALIFIED PERSON
CERTIFYING RECORDS OF REGULARLY CONDUCTED ACTIVITY
PURSUANT TO RULE 901 OF THE TENNESSEE RULES OF EVIDENCE¹**

I, _____, being first duly sworn, do attest and say as follows:

1. I am the _____ of the _____ County Emergency Communications District (“ECD”) and have authority to certify the records of the office.

2. The ECD office was served with a subpoena issued in _____ County, Tennessee on _____, 200_, seeking records of 911 tapes

¹ Rule 901 of the Rules of Evidence states in pertinent part:

-- Extrinsic evidence of authenticity as a condition precedent to admissibility is not required as to the following: . . .

(11) Certified Records of Regularly Conducted Activity. -- The original or a duplicate of a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by an affidavit of its custodian or other qualified person certifying that the record:

(A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of and a business duty to record or transmit those matters;

(B) was kept in the course of the regularly conducted activity; and

(C) was made by the regularly conducted activity as a regular practice.

A party intending to offer a record into evidence under this paragraph must provide written notice of that intention to all adverse parties, and must make the record and declaration available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.

Rule 803(6) of the Rules of Evidence states:

(6) Records of Regularly Conducted Activity. -- A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses made at or near the time by or from information transmitted by a person with knowledge and a business duty to record or transmit if kept in the course of a regularly conducted business activity and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness or by certification that complies with Rule 902(11) or a statute permitting certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, profession, occupation, and calling of every kind, whether or not conducted for profit. [As amended by order entered January 23, 2001, effective July 1, 2001.]

recorded on _____, 200_, in the matter of _____.

3. The attached records are true and accurate copies of the records described in the subpoena and on file at the 911 office.

4. The attached records were:

(a) Made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of and a business duty to record or transmit those matters;

(b) Kept in the course of the regularly conducted activity of said office; and

(c) Made by the regularly conducted activity as a regular practice.

5. \$_____ are the reasonable charges of the 911 office for furnishing such records.

Signature of Affiant

STATE OF TENNESSEE
COUNTY OF _____

Personally appeared before me, a Notary Public in and for said County and State, the within named _____ who, after having been duly sworn, executed the foregoing Affidavit for the purposes therein contained.

WITNESS my hand and official seal this ____ day of _____, 200_.

NOTARY PUBLIC

My commission expires _____

If the 911 office has none or only part of the records, revise as follows:

For none: Replace numbered paragraphs 3 through 5 with the following:

3. The 911 office has none of the records described in the subpoena.

If the office has some: Insert the following as paragraph 5 and renumber the original paragraph 5 as paragraph 6, as follows.

5. The 911 office does not have {describe missing records} requested in the subpoena. The attached records are the only records in the 911 office responsive to the subpoena.
6. \$_____ are the reasonable charges of the 911 office for furnishing such records.